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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,272	09/12/2001	Hideaki Namba	09952-060001	8711

27572 7590 04/15/2004

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EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 04/15/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955,272

Applicant(s)

NAMBA ET AL.

Examiner

Melur Ramakrishnaiah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 7-10, 12-13, 15, 17, 18, 19, 20, 21, 22, 23, are rejected under 35 U.S.C 102(b) as being anticipated by Linquist et al. (US PAT: 5,361,399, hereinafter Linquist).

Regarding claims 1, Linquist discloses an adaptive communication system comprising a first communication device (14, fig. 2) and a second communication device (38/24, fig. 2), the first communication device being adapted for use with plurality of communication systems (col. 2 lines 48-59, col. 3 lines 9-13, col. 6 lines 9-16), the first communicating device transmitting a first request signal for download of data to the

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second communication device (38, fig. 2), the second communication device transmitting data attribute information (for example message length) indicative of contents of the data to the first communication device after reception of the first request signal (col. 4 lines 21-67), the first communication device selecting one of the plurality of communication systems (for example: high data rate/low data rate channel) based on data attribute information after the reception of data attribute information (col. 7 lines 10-14, col. 21 lines 25-39), the first communication device transmitting a second request signal for requesting the download through the selected communication system to the second communication device, the second communication device transmitting the data to the first communicating device through the selected communication system after reception of the second request signal, the first communication device receiving the data (col. 21 lines 2-47).

Regarding claims 17 and 21, Linquist discloses a communication control device comprising: a data storage that stores data (col. 5 lines 14-18), an attribute adder that adds data attribute information indicative contents of the data (col. 21 lines 22-24), a data attribute information transmitter that transmits the data attribute information in response to reception of the first request signal (col. 21 lines 12-21), a second transceiver that receives a second request signal for requesting the download, the second request signal being made based on the data attribute information, and a data transmitter that transmits data in response to reception of the second request signal (col. 21 lines 22-39).

Regarding claims 18 and 22, Linquist discloses a communication terminal adapted for use with a plurality of communication systems, the communication terminal comprising: a control unit in (14, fig. 1), a first transmitting unit in (14, fig. 2) that transmits a first request to a second communication device (38/13, fig. 2, col. 6 lines 9-16) in response to operation of the control unit, the first signal requesting download of data (col. 4 lines 21-67, col. 5 lines 1-18), a first receiving means in (14, fig. 2) that receives data attribute information indicative of contents of the data from the second communication device (38/13, fig. 2) after transmission of the first request signal, a selecting means that selects one of the plurality of communication systems based on the data attribute information, after the reception of data attribute information, second transmitting means in (14, fig. 2) that transmits the second request signal to the second communication device (38/13, fig. 2), the second request signal requesting the download through the selected communication system (col. 17 lines 35-67, col. 18-43).

Regarding claims 19-20, 23, Linquist further teaches a computer program for operating a computer communication terminal program executing steps of: transmitting a first request signal to a second communication device (38/13, fig. 2) in response to operation of the control unit of the communication terminal (14, fig. 2), the first request signal requesting download of data (col. 2 lines 48-56), receiving data attribute information indicative of contents of the data from the second communication device (38/24, fig. 2) after transmission of the first request signal (col. 4 lines 52-56), selecting one of the plurality of communication systems based on the data attribute information after reception of the data attribute information, transmitting a second request signal to

the second communication device, the second request signal requesting the download through the selected communication system, receiving at data from the second communication device through the selected communication system after transmission of the second request signal (col. 21 lines 6-47), transmitting a second request signal to the second communication device at the download time after reception of the data attribute information (col. 5 lines 54-57, col. 9 lines 53-59, col. 14 lines 48-54).

Regarding claims 2-4, 7-10, 12-13, 15, Linquist further teaches the following: communication device selects one of the plurality of communication systems also based on system attribute information of each of the plurality of communication systems besides the data attribute information (col. 18 lines 25-43), attribute information indicative of a communication type used in each of the plurality of communication systems (col. 2 lines 48-56), attribute information includes information indicative of a communication protocol used in each of the plurality of communication systems (this is implied in as much the reference teaches establishing communication channels of different rate, col. 3 lines 3-18), attribute information includes information indicative of a communication rate used in each of the plurality of communication systems (col. 7 lines 10-14), attribute information includes information indicative of a media searching method in the each of the plurality of communication systems (col. 5 lines 37-45), attribute information includes information indicative of a place of transmission within each of the plurality of communication systems (col. 5 lines 3-18), attribute information includes information indicative of a communication data format used in each of the plurality of communication systems (this is implicit in as much as the reference teaches

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exchanging information between the communication devices, col. 5 lines 46-58), attribute information includes information indicative of media processing method used in the each of the plurality of communication systems, attribute information includes information indicative of media description method used in each one of the plurality of communication systems (col. 5 lines 37-58), attribute information includes information indicative of transmission time specified in each of the plurality of communication systems (col. 9 lines 50-59, col. 14 lines 50-54).

3. Claim 16 is rejected under 35 U.S.C 102(e) as being anticipated by Dillon et al. (US PAT: 6,115,750, filed 12-18-1998, hereinafter Dillion).

Regarding claim 16, Dillon discloses an adaptive communication system comprising a first communication device (110, fig. 1) and a second communication device (140, fig. 2) , the first communication device being adapted to use with a plurality of communication systems and uploading the data to the second communication device, wherein: the first communication device selects one of the plurality of communication systems based on attribute information indicative of the contents of the data, and first communication device transmits the data to the second communication device through the selected communication system (col. 1 lines 55-67, col. 2 lines 1-21, col. 16 lines 63-67, col. 17 lines 1-9).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-6, 11, 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Linquist in view of Toyodo (US PAT: 6,335,966 B1, filed 9-1-1999, hereinafter Toyodo).

Regarding claims 5-6, 11, and 14, Linquist does not teach the following: attribute information includes information indicative of: an encryption means used in each of plurality of communication systems, multiplexing method used in each of plurality of communication systems, media filtering used in each of plurality of communication systems, media encoding method used in each of plurality of communication systems.

However, Toyodo discloses image communication apparatus server apparatus and capability exchange which teaches the following: communication device obtaining capability information from the communication server for use in communication (col. 9 lines 42-67, col. 10 lines 1-36).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Linquist's system to provide for the following: attribute information includes information indicative of: an encryption means used in each of plurality of communication systems, multiplexing method used in each of plurality of communication systems, media filtering used in each of plurality of communication systems, media encoding method used in each of plurality of communication systems as this arrangement would facilitate efficient communication between the communication devices as taught by Toyodo.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (703) 305-1461. The examiner can normally be reached on M-F 6:30-4:00; every other F Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703)305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Melur Ramakrishnaiah
Primary Examiner
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